

1 what is in Section 18(a).

2 THE CHAIRMAN: We are aware of that deficiency,
3 and I think we will do something to correct it.

4 JUDGE BRUNE: Thank you.

5 JUDGE CLAPP: It seems to me that the rule-
6 making power as to practice and procedure is essentially
7 a judicial function. I wonder why substantively you would
8 say that the power of the Legislature shall be paramount
9 in that field.

10 MR. MARTINEAU: The other way around.

11 JUDGE CLAPP: I am sorry.

12 MR. MARTINEAU: Larry wrote this in Atlantic
13 City. I think that is the problem.

14 JUDGE CLAPP: Why should the Legislative
15 have any room for action in the realm of practice and
16 procedure? I remember when we were trying to get the
17 authority through the Legislature to adopt the rules back
18 in '39 or '41, '39, I believe it was, and of course,
19 that was because of the feeling again that the Court of
20 Appeals at that time said, that without legislative author-
21 ity, it felt it may not have power, being an appellate